File No. 38—02

Serial Nos 1 5

1906

GENERAL AND REVENUE SECRETARIAT

(Legislation)

Part A: Manuscript
for
January 1908

Serial Nos. 1-5.

Table of Contents.

Govt. Proceedings No. J 930-32 dated the 25th September 1907, to the District Magistrate, Kolar; the S. P. of Police & the Comptroll

States that the claim of the ~~Board is in~~ Kolar Gold Field Mining Board to receive stolen gold and mining material ~~introduced~~ before Courts in connection with criminal cases is inadmissible and that the value thereof shall as heretof be credited to the Treasury; that Govt. have taken the measu to ensure that cases of theft of gold are properly prosecuted and will be glad to have the co-operation of the Board in th matter; that the District Magistrate of Kolar will be ~~asked~~ requested to give due consideration to any suggestions that may be received from the Mining Board for the adopt

GPB—5,000—20-3-06.

G.R.S. 11]

1906-07

GENERAL AND REVENUE SECRETARIAT.

(Legislative)

NOTES.

File No. 38

File Heading.

The claim of the Mining Board for the amount of gold and mining material seized and produced before Wait Courts.

From

The Dist. Commissioner Mt Lyonia.

No.	Dated	Received

Diary No.	Enclos.	Spare Copies.	Serial No. 3807 1906. 1-5.

Brief Abstract of Letter.

NOTES AND ORDERS.

Notes—First sheet.

GPB.—30,000.

No.5674

THE RESIDENT MYSORE

BANGALORE,

30th October 1905.

My dear Owen

I am directed to address you with reference to the Resident's letter No.5390 of the 21st September 1905, regarding the draft Mining Regulation, the subject of my present communication relating to the executive arrangements which are desirable or necessary in the event of clause 22 of the draft being withdrawn.

2 The proposal which the Hon'ble Mr.Hewett, the Mining Board & Mr. Williams favoured on the occasion of their meeting at Kolar was that any unwrought gold or mining material seized or produced before a Court within the local area notified under clause 4 in any of the circumstances specified in clause 22 should be made over to the Mining Board which on its side should be responsible for defraying the expenditure incurred in rewarding informers and also in preparing analysis and making assays for the purposes of what for brevity's sake I am to call Kolar Gold cases. You on the other hand demurred to this proposal on grounds with which I am now to deal.

3. 3 In the first instance I am to refer to a view put forward by Dr.Smeeth in a letter of his No.3095, dated the 6th /8th December 1902 to the Mysore Government Advocate in reference apparently to one of these cases which actually occurred. In the course

course of this letter Dr.Smeeth justifies the claim of the State to retain possession of gold which has been the subject of Proceedings under the Mining Regulations in the following terms:-
"The Government claims this gold in virtue of the fact that all precious metals in the State belong to Government except in certain cases where Government has leased the right to collect gold to certain persons"

4. Now the obvious and fatal objection to the claim as thus stated is that it absolutely contravenes the fundamental principle on which all the Mysore Mining legislation is based. That principle is that within a certain area the presumption is so strong and conclusive as to unwrought gold and mining material being the property of one of the Mining Companies(the State's lessees)that any individual who is found with such things in his possession except under the protection of a license is ipso facto deemed to be a malefactor and liable to punishment. And the Courts who are required to carry this principle(embodied by the State in legislation)into effect are then called on to witness the surprising spectacle of the State laying hold of the gold and retaining it because,on Dr.Smeeth's justification it is not the property of any State's lessee at all, but presumptively the property of the State. But in point of fact the presumption that the gold belongs to a lessee of the State is just as conclusive against the Durbar as it is against the individual

5. 5 But the objection is taken that the Mining Board is not a representative body that it is not authorized to receive the gold in such cases, and that the smaller mines do not furnish members to it. It seems to Mr.Williams that these objections are of such a theoretical nature that they may safely be disregarded by practical men. To take an analogous case, the Great Powers of Europe frequently claim to speak in the name of Europe. Theoretically the Republic of San Marino and the Prince of ~~Monaco~~ Monaco as independent powers are equally entitled to a voice with France and Russia. In practice they are of course entirely disregarded, and the two cases seem to me to be parallel. But even if it is assumed that ideal justice is not done by making over to the Mining Board the gold which may possibly have come from one of the smaller and unrepresented Mines yet such a proceeding is vastly nearer that ideal than the present arrangement whereby the State retains it: and it may well be left to the unrepresented bodies to make a complaint for themselves if in practice they consider that the change is fraught with any injustice to them. And to conclude the arguments on this point, it is not only an obvious convenience that there should be such a body as the Mining Board at Kolar (whatever theoretical defects there may be in its constitution) capable of focussing and giving voice to the general opinions of the Mining interest, but the fact has been fully recognized by the Durbar which has ever since the year 1891 permitted that body to send delegates to the Dusserah assembly. If in matters of importance the Durbar consents to treat the Mining Board as a

representative body it seems to the Resident hardly justifiable to bring the charge of want of representativeness against it in respect of the present proposal and to suggest that it is not capable of disposing of property of no great extent or value in the bona fide interests of the Mining community generally.

6. 6 The position which the Offg: Resident adopts in respect to the proposal is as follows. Certain gold is produced which in accordance with the principle which is the basis and justification of all past Mining legislation in Mysore must be assumed to be the property of one of the Mining Companies. It is however impossible o discriminate to which Company exactly it belongs. There is however a body(the Mining Board)which practically represents the aggregate of all the possible rightful owners so much so that there is a great prepondrance of chances that the Mining Companies from which the gold was actually taken is represented on that Board. All the individual members of the Board are content that such gold shall, so far as the Companies they represent may happen in fact to be the rightful owners,be committed for disposal to the Board. There is no reason to suppose that the Companies which are not represented on the Board and who constitute the other possible rightful owners object to this course. The gold is in fact stolen property and consequently an asset which the State can hardly in honour retain while a reasonable possibility exists of returning it to the rightful owner. In such circumstances it seems to me that in rejecting the proposal the State would appear to be availing itself of a mere

technicality

THE RESIDENT MYSORE

BANGALORE

technicality in order to avoid restoring stolen property to its rightful owner. And in return for this restitution Mr.Williams understands that the Mining Board would agree to defray those special charges which arise in connection with such cases which are enumerated in paragraph 2 of this letter and at present fall on the Durbar. If there were any reason to suppose that an acceptance of the proposal would involve any material loss to the State finances the Offg: Resident could understand that there might be some reluctance felt in acceding to the proposal but in fact he understood from you that the loss if any would not be more than nominal. If that is so he finds it difficult to see why the Durbar should hesitate to accept an arrangement which is right in principle and the adoption of which would not be attended with any prejudice to the State revenues.

Yours sincerely,
[signature]

Sir P.N.Krishna Murti,K.C.I.E.,
Dewan of Mysore.

(The original file is herewith returned.)

7 Under Secretary — Get the file after the Draft Regulation is despatched and submit.

P. N. Krishnamurti,
17.11.05.

8 How does this matter stand? ~~Asst. L. Rao~~.

D. M. Narasinga Rao.
17.11.05.

Notes on the disposal of Mining Materials produced in Criminal Cases.

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9 Geneva Regulation Sec. 8. makes it an offence for any person to be in possession of mining materials, within specified areas, without a written permit from a mining inspector or without being able to prove that he obtained the same in a lawful manner. When a person is charged under this Section, it becomes clear that he is not the owner of the said Material.

If [redacted] be prepared
to make [redacted]
[redacted], or
to any other arrangement
that may hereafter [redacted].

16/12/05
S. Narayan Rao
16-12-05

Serial No.

15 This will be dealt with in the Legislature Dept in due course P.N. Krishna Murthy 26.XII.03

16 To the Dy. Secy B.K. Venkataravanda Iyengar 27.12.03

17 Subd SN 31-00

18 The disposal of stolen gold in Kolar gold cases is only a particular case of disposal of stolen property, & it has therefore been regulated by the general principle that where no person can establish his claim to such property, the Court is expected to credit it to Government. The mere fact that most, or even all, companies on the fields, are formed for certain purposes, represented by the Mining Board, cannot constitute the latter the owner of mine gold where no individual Company can establish its separate claim. This is the point on which the Whole Q rests, though it is quietly ignored in the D.A. Resident's letter. It is all

(on this point is the Law laid down in the Cr. Pro. Code (Sec 517). By that sec: the Court trying the case can in the event of conviction, dispose of the stolen property)

NOTE—Contn. sheet.

MGCPB—10,000—31-8-0

Serial No.

at its discretion. When on conviction ceases the property is the restored to the individual from whom it was taken or to any other who may prove his title thereto.

BKV
12-1-1926

But the Mining Board want a rule that all such stolen gold should be given away to them absolutely. This will be limiting the power of Courts given by the Cr. Pro. Code.

BKV
12-1-26

very well to say that stolen gold is an asset which the State can hardly in honour relinquish &c. &c.; but this is the very course which Chapter XLIII of the Criminal Procedure Code (which we have borrowed from the British Indian Statute book) prescribes in all such cases.

20 The reference in Mr Kings letter to Govt availing themselves of the technicality to avoid restoring stolen property to its rightful owner" seems to obscure the fundamental fact that there is no rightful owner at all in such cases, that is no one who can establish his claim to the satisfaction of a Court of Justice.

21 The quid pro quo suggested in the last para of the letter is a different matter, & has to be considered independently of the question of principle.

22 Perhaps the views of the Heads of the Chief Courts may be invited, at the discretion of Criminal Courts for purposes to be [illegible]

Also, that the Advocate General in Appeal Side

Note.—Contn. sheet.

Serial No.

Payment of reward by the Mining Board and the State Geologist as regards cost of analyses & assays K.S. Chandrasekhara 11-1-06 Agent

23 Submitted to the Devan Sahib thro the 2nd Councillor B.K.V. Kamada 12-1-06 Agent

12/1-1906

24 The Mining Board seem to represent the bulk of the company on the lease within the specified area. The mining material removed is in reality the property of one or other of those companies. There is some force in the contention that the Board should be recognized as the owner provided it indemnifies Govt against possible claims by the undisclosed company. The case is a peculiar one & where the ordinary law does not seem clearly applicable. On the other points mentioned in the Dy Secy's note, the objections suggested may be accepted.

C. Sreenivasachar 7/1/06

Note—Contd. sheet.

13/1/06

MGGPB—50,000—17-2-05.

Serial No.

25 Mr. Lapsetwood Geological Secy will kindly afford a note showing the constitution of the Mining Board, their right to hold property or represent the interests of miners, individually or in body, their corporate or other character which would enable them to hold gold. He will also kindly add a statement of such gold or land & particulars as to when different parts were resumed.

14.1.06 P.N. Krishna Murthi

Jno. 12.

26 Forwarded to the Secy in the Geological Dept. for favor of further action 16.1.1906

M. Venkatarama Iyer
Secy in the G & R Dept

Ex 123.

27 Submitted to the Dewan Sahib with a note on the Constitution, Status and Powers of the Kolar Gold Mining Board, as ordered at

E. Westwood.
Offg. Secretary to Govt. Revenue.

N 1016/5.2.06.

25.1.06.
2.2.06.

Note.—Contn. sheet.

MGOPB—50,000—17-2-05

16

Note dated 25th Jan 06

~~Memo on~~

on the Constitution, status and powers of the Kolar Gold Field Mining Board,

by E. W. Wetherell, Offg. Secretary to Govt., Geol. Dept.

28 The Kolar Gold Field Mining Board 's a body consisting of Superintendents f certain mining properties on the olar Gold Field, which was organized y Mr.E.D.Plummer of Mysore Mine at he instance of Lord Ribblesdale, in ebruary 1888, for the purpose of deal- ng with such matters as Sanitation, Roads, the administration of the Hos- pital and the rates of Labour on the Field.

29 At first all the Mine Superinten- dents and Resident Agents of the various Mines on the Kolar Gold Field formed the ex-officio members of the Board, but in March 1899 the membership on the Board was restricted to the Super- intendents of only such mining Companie whose working capital subscribed or already expended, represented not less than £.50,000/-.

30 At a meeting of the Chairmen of the Companies working on the Kolar Gold Field held on the 1st March 1899, the main object of the constitution of the Board was emphasized to be to con- sider and represent to the proper authorities, the general needs

Field, in such matters as Sanitation, water supply, Roads, Postal arrangements, Police Protection and other kindred subjects affecting the mining interests of the Field, as a whole, or the Kolar community, whose needs were and are necessarily different from those of the general population of Mysore. It was also laid down at that meeting that the Mining Board thought it obviously desirable that it should endeavour to be of assistance to the Mysore Government when called upon in giving an opinion on any proposed regulations, in collecting statistics required, in carrying out measures for cholera and plague protection or famine relief, and generally of affording the services of a representative body, on whose recommendations and support the Mysore Government could rely and on whose willing co-operation they might count.

31 The Kolar Gold Field Mining Board has no particular official status which has been recognized by Government, nor is the Government represented on the Board in any way. Government have not as such given the Board any lease or right to hold any mining property or to work or take gold from any mine in the State.

32 The Board is merely an association of Mine Managers formed for their mutual benefit and progress and its right to represent

represent the proprietorship of the Mines either individually or in a body has nowhere been recognized by Government and they cannot have any money liability on behalf of any body

33. The Board obviously possess no dealings whatever with the internal management, working or administration of the Mining Companies from which it has representatives, as will be seen from the following extract from the Proceedings of a Meeting of the Chairmen of the Companies working on the Kolar Gold Field, held on the 1st of March 1899:-

> "It was clearly not contemplated
> "that the Mining Board should
> "discuss matters connected with
> "the administration or internal
> "economy of the various mines for
> "such matters must obviously be
> "controlled by the several governing bodies concerned."

34 The claim for the return of stolen gold is, it is believed, one relating purely to the internal economy of the mine from which the gold was stolen, and it is only that particular mine that can lay the claim to such gold. In the absence of such a mine that can possibly do so, the Board does not appear to possess any claim to it, inasmuch as the administration of the internal economy of the mine does not

concern it.

35 I am not aware of any order of Government recognizing the corporate or other character of the Board, under which it can lay its claim for the stolen gold.

36 A statement showing the gold confiscated to Government up to date and the dates on which the different properties were received, together with their approximate value will be found in the accompanying Register of confiscated Property. As the preparation of a separate statement involves some delay, I beg to send the Register herewith with a request that it may be returned to this office when done with.

Edwardes

N 1.06
25

Bangalore. Orig.Secretary to Govt.
25th Jan.06. Geol. Dept.

Serial No. 37 Legislative Branch.

The questions suggested by the Councillor may now be called for. P.N. Krishna Murti
12.2.06.

~~Leg. Secy~~

14.2.06

~~Gen. Confl. No. 715 dated the 15th February 1906~~
~~3-5-05~~

38 Forwarded to the I.G. of Police for favor of opinion 14.2.906

P. Venkatarangam
Secy

This has to do with the actual working of the Police Department. 13/3

39 Returned, with the attached memorandum for favor of perusal.

21-3-06.

J.C. Clay
I.G. Police

Gen. Confl. No. 361 Dt. 24/3/06

Memorandum, dated 21/3/06
from F.E.C. Carr Esq., I.G. of Police.

40 With regard to that part of the above reference on which I understand my views have been called for, viz., payment of rewards by the Mining Board in Kolar Gold cases, I would remind Government that the Mining Companies pay a sum of ₹1300 annually for the upkeep on the Gold Field of a separate and distinct detective department; and that out of this sum also is defrayed rewards to informers, secret service expenses, and rewards to the Police. From a point of sentiment therefore, even of equity, it follows that all unwrought gold and mining material, which has been proved to have been stolen within the mining area, should be returned to the mining authorities. The difficulty however is for Magistrates to do this, when it cannot be proved to what particular mine the gold may be presumed to belong.

41 Having been Deputy Commissioner of the Kolar District for four years, and having had a good deal to do with these mining cases I should like to make a few remarks on the other points raised in Mr. Moss King's letter, and in the memorandum of the Deputy Secretary, Legislative Department. a purely legal point of view, there can I think be very little doubt, that the Mining Board <u>per se</u> is unable to establish its claim to unwrought gold or mining material, which has been seized or produced before a court within the mining area, but which no particular mine can lay individual claim to. The Mining Board is in no sense a body corporate, or enrolled as a Company or Association, and as such has no legal status --- whatever. The mere fact that the Board is recognized by --- Government, as representing the various mining companies in England, and of " focussing and giving voice to the general opinion of the mining interest " cannot give it that le status, which alone could enable the courts of the Prov

to return gold, unclaimed by any particular mining company " as lessee of the State ")to such Board.

42 The question is, how is it possible for Government to direct the courts to return stolen gold, unclaimed by any individual lessee, to a Board, without special legislation on this point. The Magistrate may presume that an individual found in possession of unwrought gold or mining material without a license, is ipso facto a malefactor, but the same Magistrate cannot hand over unclaimed gold to the representatives of eight or ten mining companies. It might just as well be argued that the Durbar is in honour bound to hand over stolen Mysore coffee, which has been clearly proved to be Mysore -- coffee, but which is unclaimed by any individual planter, to the Mysore Planters' Association; which I understand represents the interests of the bulk of the coffee owners or companies in the Mysore Province.

43 The bait which is held out to the Durbar viz., that in return for the gold handed over to the Mining Board, the Board will hold itself responsible for rewarding informers preparing analyses, and making assays in Kolar Gold cases, is a very tempting one; as I know from experience that much of the valuable time and experience of the various officers of the Mysore Geological Department, is absorbed in such analyses and assays; and it would I know greatly expedite and simplify the working of gold cases if such an arrangement could be entered into. On the other hand however should such an arrangement be possible, I anticipate that the courts of the Province, and even the High Courts of Madras, would be inclined to view the expert evidence of the Mine officers, as perhaps more biased or at any rate more likely to be biased, than that of the Mysore Government officials.

44 There is still another point which is touched on in the penultimate sentence of Mr Moss King's D.O. letter --- namely that the material loss to the State will be so small in the event of the above arrangement being arrived at with

the Mine authorities, that the State revenues will not be prejudiced. Does not this argument apply with equal force to the revenues of the Mining Board. The matter in fact is of such small importance pecuniarily, either to the State or to the Mining Industry, that it appears hardly necessary to dislocate the ordinary course of justice, and interfere with the recognized powers of Magistrates and courts, to deal with stolen gold under the ordinary sections of the Criminal Procedure Code, in order to make so small a concession.

45 I regret there has been a delay in answering this reference but I have been on tour during the last month, and was unable to consult several confidential papers, which were under lock and key at Head Quarters.

Hampton
21-3-08

Inspector General of Police.

23(a)

G. R. S. 12]
General and Revenue
Secretariat.

File No. of 190

46 Forwarded to the Secy to Govt in the Geological Dept for favor of opinion
V. Venkatarangaya
Secy
24.3.[illegible]

Rec'd 24/3/08

Note.—Contn. sheet.

MGCPB—20,000—1-11-04.

Note.—Contn sheet.

GPB—50,000—17-3-07

Serial No.

Note dated 25th April 2nd May 1906
~~G.O. No.~~ From E. W. Wetherell Esq., Geological Secretary

47 I presume that the opinion I have to give now is in regard to the cost of the analyses of gold in order to determine whether the gold in each case is Kolar Gold or not, and I append hereto a copy of a Statement received from the Agricultural Chemist which gives the actual average expenses incurred in such an analysis so far as actual figures are obtainable. They do not, however, include the time of the Subordinates engaged in the work nor the time of the Agricultural Chemist spent in supervision. Among the Chemicals, the gas which is by far the principal item has not been included, as there are no means of determining the exact quantity used. The actual expenses are therefore above the one mentioned and are more nearly Rs. 400/- than Rs. 375/- as given in the Statement.

48 Moreover, these figures do not include the comparatively large number of analyses of gold made to determine ways and means of identifying the Kolar Gold Fields

Note—Contn. sheet

GPB—50,000—23-10-05

G.R.S. 12]
General and Revenue Secretariat.

25

File No. 5 of 1905

Serial No.

Fields' Gold.

Ewart Lerell

Offg. Secretary to Govt.,
Geological Dept.
25th April 1906.
2nd. May 1906.

2.

The Secretary to Government in the
General & Revenue Depts.

49 STATEMENT OF COSTS OF ANALYSING A SAMPLE OF GOLD.

The time of the Agricultural Chemist spent in supervision and that of the menials helping in the analysis not included. The Gas required, the breakage of glass, depreciation of apparatus &c. &c. not included either.

Time of Assistant Chemist.

Preparation (Rolling, Cleaning, Drying and weighing out the sample).....2 days.
Getting gold into solution.....3 days.
Evaporating and destroying the Nitric acid.....1 day.
Diluting and precipitating the Silver.....1 day.
Filtration and precipitating Gold.....2 days
Evaporating and destroying the oxalates.....3 days
Precipitation of Lead.....1 day.
Electrolysis.....1 day.
Precipitation of Tin.....1 day.
Concentrating and driving of SH_2 and Oxidation of iron.1 day.
Precipitation and reprecipitation of iron.....1 day.
Precipitation of zinc, Nickel & Cobalt.....1 day.
Separation and Estimation of Zinc, Nickel and Cobalt...3 days

Total.....18 days

Sundays.....3 days
Attending Court twice, together with going & coming....4 days.

Total.....25 days

The pay of the Assistant Chemist for 25 days at Rs.400/- (his present pay).....Rs.333-0-0
Travelling allowance of the Assistant Chemist Double 1st class & Rs. 4 per day.....Rs. 33-0-0
Travelling allowance of peon.....Rs. 3-8-0
Chemicals.....Rs. 4-0-0

Total.....Rs.377-8-0

"Copy"

Offg. State Geologist in Mysore.

(Sd) A. Lehmann.

25th April 1906

G.R.S. 12}
General and Revenue Secretariat.

Legis File No. 5 of 190 5 – 06

Serial No.

50 Submitted.
5.5.06 7-5-06

51 One other authority has now to be consulted, Vz. the Chief Court. (Vide my note of 11-4-06, enclosed in file the date of a late decision) This may be sent unofficially to the Registrar of the Chief Court. Legis K.S. Chakravarthy Ayyar 11-5-06

Legl No 30 dated 16th May 1906

52 Forwarded to the Registrar of the Chief Court for the opinion of the Chief Court.

16.5.1906 Legis

182 Dft

53 The 'opinion' of Mr. Justice Ramjumdayya is attached. If the opinion of the other Judges is required the file may be sent back after the recess.

21.5.6. Registrar returned

Regr. Chief Ct.

GPB—50,000—23-10-05

Mr. Justice H.V. Nanjundayya's 28
Note dated 21.5.06

54 When no one succeeds in making good his title to property, it seems to be the most reasonable course to appropriate it for the State. It is difficult to see where the objection on the score of sentiment can come in. It is recognised in all systems of law that the State is entitled to take the property to which a private person's ownership is not established. That the State should not in honour retain property while ~~there is~~ a reasonable possibility exists of returning it to the rightful owner, is of course true. If it is said that the Mining Board is or represents that owner, the whole matter in dispute is assumed.

55 The State represents the public interest, and uses the property obtained for public purposes. If the Mining Board which is neither a firm nor a corporation can claim such property on any grounds, there will be no justification to refuse, (e.g) a like claim if made (as pointed out in one of the papers in the file) on behalf of a Planter's Association, or on behalf of the inhabitants of a village.

56 That all the Mining Companies are not represented on the Mining Board does not seem to be an important objection to its getting this gold. The real objection is that it ~~It~~ is not a body known to the law as a person, and cannot be invested with any rights of property. It would make little difference even if all the companies were represented in it.

57 The exceptional principle underlying the Mining legislation may recognise that such gold should have come from one of the Mines in the area. In fact, the presumption that it really creates seems to be that a private person cannot acquire such articles in the usual course of honest business. But it does not raise any presumption and cannot operate to create any right on behalf of that indefinite body known as the Mining Board. The State takes such derelict

property as its lawful perquisite, and a private collection of persons cannot lay claim to it in law, and it would probably be inexpedient to transfer such public rights to them for any consideration.

58 The Mining Board, as appears from the Geological Secretary's Note, has no common proprietory interest among its members. It is very questionable whether such a body can by law be incorporated or treated as a juridical person for any purpose. If it is considered convenient or necessary to give such gold over to them, it would much better be done by an executive order, after the Courts have in course of ordinary legal provisions declared the property to be at the disposal of Government. It would be invidious and altogether inexpedient to create an exceptional legal personality for this sole purpose.

59 To guard against injustice to accused persons, the law has carefully provided that the interests of private parties should be kept as far as possible apart, without unduly interfering with the prosecution of important cases. It is doubtful whether it would be expedient to receive special contributions from interested parties for proceedings in connection with the bringing of offenders to justice, as is proposed to be done, in return for the handing over of this gold to the Mining Board.

21.5.26. H. M. Majumdar

G.R.S. 12J
General and Revenue Secretariat.

Legis File No. 5 of 1905 — 06

Serial No.

60 Submitted for orders.

25.5.06

61 In the Deputy Secretary's note dated 11-1-06, it is suggested to call for the opinions of the State Geologist, the Inspector General of Police, and the Judges of the Chief Court of Mysore; and the suggestion was approved by the Hon'ble Councillor and the Dewan Sahib. The opinions of the State Geologist & of the Inspector General of Police have been received and are in this file. Of the Judges of the Chief Court, the opinion of Hon'ble Justice Narasimhayya alone has been received. The Registrar of the Chief Court suggests that if the opinion of the other Judges be required the file may be returned after the recess. May the file be kept in suspense to be sent to them after the recess?

62 Orders 63 B.K. Venkatarama Iyengar 30/5/1906

25.5.06 25.5.06

64 ~~Submitted. The file may now be forwarded to the Chief Court.~~

CRD 26.6.06

26.6.06 26.6.06

65 Forwarded to the Chief Court for kind information the opinion of the other Judge about

Secretariat Office 40 17.6.06.

Note—Contn. sheet

GPB—50,000—23-10-05

G.R.S. 12]
General and Revenue
Secretariat.

File No. 5 of 190 [illegible]

Serial No. 66

Copies of the 'Opinions' of the Chief Judge and of Mr. Justice Krishna Rao are forwarded.

Rajahatnemud
Regr. Chief Ct.

3.7.06

Answer.

Please turn over.

iii
Issue
3.7.06

Note—Contn. sheet

GPB—50,000—23-10-05

Opinion of A.E. Staley Esq., Chief Judge.

67 I do not think it practicable or desirable to direct by legislation or rule that a Magistrate should make over unwrought gold or mining material seized or produced before him within the Mines local area to the Mining Board. The Mining Board is apparently not a legal body with any definite legal status and responsibility nor capable at any moment of being ascertained or of being represented by one of its officers. A Magistrate would have difficulty in making over property to the Board if he tried to do so. It cannot, as proposed in the Assistant Resident's letter, justly be provided that a Magistrate should make over unwrought gold or mining material seized or produced before him to any one before a decision as to its proper ownership or in default of ownership being proved, before confiscation.

68 I have no opinion to express on the use of the Mining Board and whether it is advisable that they should defray the expenditure incurred in rewarding informers, in analysis and assays and in return should receive unwrought gold and mining material which becomes the property of Government after proceedings under the Mining Regulations. That is a question for the Government to decide.

69 If the Government decide that it is advisable that this should be done then it can be done without legislation necessarily. The Government may empower the Chairman, or a member, or a servant of the Board, as may be convenient by name, as agent of Government to receive unwrought gold or mining material for which an order of confiscation to Government has been passed by a Magistrate acting under the Mysore Mining Regulation. By doing this it will become unnecessary to refer in the Regulation to the Mining Board; and the difficulty of defining its functions and constitution will be avoided.

30.6.1906.

Sd. A.E. Staley,
Chief Judge.

Opinion of Mr Justice P.S. Krishna Rao

70 The Mining Board is not, in the eye of law, a person invested with any rights or subject to any liabilities. Nor does it represent all the Mining Companies. It would therefore be objectionable to provide by legislation that to such a Board Mining materials seized or produced before a Court within the Mines local area should be made over. Such a piece of legislation would, in the case of property seized, also contravene the express provision of law contained in section 524 of the Code of Criminal Procedure.

71 There can be no objection, however, to Government directing by an Executive order, if they think it fit to do so, that all property which vests in them by virtue of orders passed under sections 517 and 524 Criminal Procedure Code, be made over to the Mining Board subject to such conditions as they may consider necessary to impose.

3.7.1906. Sd. P.S.Krishna Rao.

G.R.S. 12J
General and Revenue Secretariat.

Legis File No. 5 of 1905-06

Serial No.

72 Subd: the opinions of the Chief Judge and that of Mr. Justice Krishna Rao are furnished in re the disposal of stolen gold in Kolar gold cases.

C.R.D.
4.7.06.

4.7.06

7 Here put up Revenue letters 5390 of 21.9.05 referred to in Residency D.O. 5674 of 3.10.05.

Subd.

Residency letter no. S 390 of 21.9.05 in serial 4 in Legis F.S of 05-06, which was submitted to under secretary to-day.

C.R.D.
5.7.06.

73 The opinions of the officers who were to be consulted, have been obtained. Submitted.

K. Matthan
5-7.06.

74 A draft reply (prepared by Mr. Mathan) is put up as likely to facilitate the disposal of this difficult question.

K.S. Chandrasekhara Aiyar
4 July

4/7/06

75 It seems to me that the proper

Note—Contn. sheet

GPB—50,000—23-10-05

G.R.S. 12J
General and Revenue Secretariat.

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taken up in the Draft proposed is sound & may be adopted - It has high authority to support it -

76 The arguments advanced in the F.A.-G's letter dated 3rd Oct 1905 seem to me to be fully met in the minutes of the Judges of the Chief Court & of the I.G.P. of Police & the Secy in the Political Dept. Among these I would select for special mention those of Mr Justice Ranjindya & of Mr Carr Inspect of Police -

13

77 All property which is not the property of individuals or of aggregates of individuals legally capable of holding property & of such nature as any rights of such individuals may be established in or over the same is the property of Govt as one of the prerogatives of the State. To surrender such a prerogative would not only be opposed to a strong public sentiment in the matter but may also prove the an inconvenient precedent -

GPB—50,000—23-10-05

Serial No.

Precedent.

78 The value of the property in questi
in any case is immaterial — The
objection would apply as much
to a heavy bar of gold as to a
Motor Car or Table Cloth. Notifica
by the Appt Comm^r of the Mag
of the Kolar Gold Fields at page
1187 Part II of the Mysore Gazette
& Ors relevant —

79 There are Gold Mines & no
Mines or Diamond Mines in
other parts of the British Empire
Do any of these enjoy the pri
that is claimed on behalf of
Kolar Mining Board? No
That I know of — J. Ananda R
8 Sept 06

80 Para 3 of the draft. Most
of the cases fall under
Class (1). The accused
is tried before the Magis

NOTE—Contn. sheet

GPB—50,000—23-10-05

Serial No.

and is either convicted then let off. The question is a the dispersal of the proce In most cases it is impo to say from what mine property was stolen. I therefore treated as unclaimed p and eventually confisc to Govt. The Mining Bo want such property t made over to them aft is so confiscated. Par seems to require revis

81 The Mining Board ha legal status. The issue an Executive order of to return all unclaim gold to the Board whe illegal & opposed to public poli and disapproved by p sentiment.

82 I should like to ask a question. There are sm mines in other parts of British Empire. Is su

NOTE—Contn. sheet

Serial No.

His J : 76

a Concession shown except this may be hinted at in the Draft letter to the Residen

83 I think the case is well put - The draft may be appro

84 I am glad to note that Mr Carr has given his verdict against the grant of the Concession.

W. H. Meadowcroft
2nd Councillor

11/12/06.

85 Under Secy Jud Branch:

Please ~~do it the~~ make any necessary improvem in the draft in the light of the Councillor remarks above, & resubmit.

K S Chandrasekharaiya 12/12

86 Owing to heavy work in connection with the ~~Council~~ Representative Assembly, I have not hitherto been able to take this up. My work in connection with the Administration report is so heavy that I have cannot hope to attend to this soon. As permitted by the Secretary to-day, the file is submitted to him.

K. Matthan
31.12.06

NOTE—Contn. sheet

GPB—50,000—23 10-05

G.S. 12]

General and Revenue Secretariat.

39 Mis: J 76

File No. of 190

Serial No.	
	87 draft revised & submitted to the Dewan. K.S. Chandrasekhara Ayar 7.11.06
	27/98 7/11/06

Note—Contn. sheet

GPB—50,000—23 10-05

Submitted to His Highness.

88 In his D.O. letter No.5674, dated 3rd October 1905, addressed to Sir Krishna Murti, Mr Moss King has argued the question of the delivery of confiscated gold &c to the Mining Board. The matter has been very carefully considered in consultation with the Heads of the Geological and Police Departments and the Judges of the Chief Court. The opinion is unanimous that the return of confiscated gold to the Mining Board is opposed to existing law and that it is [redacted] inexpedient to authorise such delivery either by fresh legislation or by executive order

89 The draft reply discusses the various points at length and may be approved.

V.P. Madhava Rao
9/11/06

41

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Qastion of the delivery of confiscated gold ~~w~~ to the Mining Board, with draft to Residency

90 *Order.*

Approved

~~KRW~~

13/11/06

Dewan's order

Please issue

By

C.S. Balasundaram Iyer

13/11/06

Type neatly & submit

~~Revised draft~~

D O N° 312 ——— ~~→~~ The Hon'ble Resident

dated 15 Nov 06.

92 Please refer to Mr. Moss King's letter No.5674 dated the 3rd October 1905 to Sir P.N.Krishna Murti, regarding the proposal that unwrought gold and mining material seized or produced before a court on the Kolar Gold Field should be made over to the Mining Board, which should on its side defray the expenditure incurred in rewarding informers and in making analyses and assays.

93 The delivery of confiscated gold to the Mining Board was also the subject of a representation made by Mr.Bosworth Smith on behalf of the Board during the last session of the Representative Assembly.

94. The question has been carefully considered by the Durbar in consultation with the Heads of Departments concerned and the Judges of the Chief Court, with the result that the Durbar regret they cannot accede to the proposal, which seems to them inexpedient in itself and opposed to the principles underlying the general law on the subject of the right of the State to property of the kind under reference.

95 The argument advanced in favour of the proposal in Mr.Moss King's letter is that, since the property concerned most probably belongs to one or other of the Mining Companies and probably to one of the Companies represented on the Mining Board, there will, if the Durbar hand over the property to the Mining Board, ~~there will~~ be a reasonable possibility that it goes back to its rightful owner; and that, while there is such a reasonable possibility of returning the property to the owner, the Durbar cannot in honour retain it. This argument is plausible, but a little consideration will show that it cannot be accepted as sound.

96. That the State is entitled to retain property not belonging to individuals or aggregates of individuals legally capable of holding property, except in so far as any rights of such individuals may be established over the same, is a principle which has been recognised from the earliest times by the laws of all countries, including that of England and, I may add, the Sacred Books of the East. It cannot be said that this principle is opposed to ~~sound reason~~ reason and or good ~~conscience~~ conscience. The basis of the right of the State to retain unclaimed property is not that it has, as a person, a better legal right - such as would be recognised in a civil suit between two parties - to

the property, than any person who unsuccessfully tries to establish a claim to it. It is not Government property in the sense that a Government building or the furniture in it is : it is the State's prerogative ~~or perquisite~~ perquisite of the Sovereign : and the justification for the State retaining it, in the absence of persons, who can establish a legal claim to it, is that it will be utilised, not for the benefit of any individual, but for the public good generally. And in using these properties or their value, the State does not (either in Mysore or elsewhere) consider itself bound to spend the money for the benefit of the particular area where the property was seized, or of

48

of the particular individuals or class of individuals from one of whom the property was probably stolen. Suppose some grain, which like unwrought gold is unidentifiable property, is found in a village under circumstances which show that it was stolen from some ryot in the village: nobody establishes his claims to the grain: the State does not direct that the grain should be handed over to the village panchayat, although every ~~ryot~~ raiyat in the village may have a voice in the panchayat, and may be agreeable to the property being handed over to the panchayat. Similarly, where unclaimed property is found within the limits of a Municipality, or in the area under the control of a District or Taluk Board, the State does not hand over the property to the Municipality or the District or Taluk Board, but credits its value to the Public Treasury.

97. If a local public body like ~~the~~ a Municipality or District Board were to make such a claim, there might indeed be some ~~shadow of reasonableness~~ reason in it, as these bodies are solely administrators of public funds for the public good; but with regard to the Mining Board, the Durbar ~~can see no justification in its putting~~ do not think that it can validly put forward such a claim. The information which the Durbar possesses regarding the constitution and objects of the Mining Board goes to show that its function is to consider and <u>represent</u> to the proper authorities the general needs of the Field; and

and it is in this character that it has been allowed to send delegates to the Representative Assembly. It does not control any Public Funds or administer them for the public benefit. In fact, unless the Durbar are mistaken, it has nothing whatever to do with the control or administration of the finances or the pecuniary relations or the property of the Mines in the Field. The Mining Board, moreover, does not represent all the Mining Companies on the Kolar Gold Field. It has also no legal status as a body, and is not, in the eye of the law, a person invested with any rights or subject to any liabilities. To provide whether by legislation or by issue of executive order, for the delivery to such a body of all unclaimed gold and mining materials seized or produced before a court within the mining area, appears to the Durbar to be distinctly contrary to public policy, while it is sure to be strongly disapproved of by public sentiment, besides proving to be an inconvenien precedent. It has not been claimed, moreover, that a concession or privilege of the kind claimed on behalf of the Kolar Mining Board is enjoyed by similar bodies in any other parts of the British Empire, where there are valuable gold, diamond, or other mines.

98. The above observations will, I trust, be sufficient to show that the Durbar is by no means "bound in honour" to hand over the property to the Mining Board, any more than it is bound to hand over to the Planters' Association any coffee suspected to have been stolen from some one or other of the planters, or to the village panchayet or Taluk or District Board any property suspected to have been stolen from a house-holder within the limits of the local area under it. ~~And as already observed the value of the property involved is comparatively so inconsiderable that it does not seem to be worth while to take such an unusual departure from existing practice in the disposal of stolen or unclaimed property.~~

(as observed in the Case-para 9 of Mr Mosse Mining's letter)

99. While on this subject, I may mention that any such arrangement as that proposed would materially affect the provisions of the law as to disposal of property contained in sections 517, 518, 523 and 524 of the Code of Criminal Procedure, which the Durbar have adopted from the British Indian Statute Book. Under these sections (1) a court enquiring into or trying a case has the power to pass such orders as it deems fit regarding the disposal of any property that may be produced before it in connection with the case, and (2) as regards property not

connected with a case but seized on suspicion by the Police, the Magistrate to whom the seizure is reported is required to deliver it to the owner, and if the owner is not found the property will be at the disposal of the Government. Most of the cases on the Kolar Gold Field fall under the first class of cases. No such interference with the power of the Courts as would be involved in a change of the kind proposed has, as far as the Durbar are aware, been attempted in British India or elsewhere; and the Durbar consider that the circumstances of the case do not justify such a course in the Kolar Gold Field. At the same time, the value of the property involved is (as observed in the concluding para of Mr. Moss King's letter) comparatively so inconsiderable that it does not appear worth while to take such an unusual departure from existing practice in the disposal of stolen or unclaimed property.

100. Before concluding, I may point out that the passing of the new Mines Regulation has lessened the importance of gold analyses as a part of the proceedings connected with the trial of gold theft cases. I may also refer to the inexpediency on principle of the State receiving from interested parties any special contributions towards the cost of crimir proceedings.

~~D. No. 6496~~

D. No. 6496
dated

BANGALORE.
14 November 1906

From F. P. Fraser Esq
Acting Resident in

To the Hon'ble Madhava Rao

Sir,

I am desired to invite a reference to the communications noted on the margin regarding the arrangements contemplated for the return to the Mining Board of gold and other mining materials, in respect of which a criminal offence was proved to have been committed.

(1) Para 4 of Residency letter No.5390, dated 21st Septr 1905 addressed to the Durbar.
(2) Mr. Moss King's D.O.No.5674, dated 3rd October 1905, addressed to Sir P.N. Krishna Murti.
(3) Para 4 of the Durbar's letter No.355 dated 7th November 1905.

Mr. Fraser will be glad to know what action, if any, has resulted from the adoption of the views expressed therein, with which the Durbar have already concurred.

I have the honour to be,
Sir,
Your most obedient servant,
F. P. Fraser

V.P. Madhava Rao Esq., C.I.E.,
Dewan of Mysore.

50

DO. No 313 dated 15th Nov. 1906 from
V.P. Madhava Rao Esq., C.I.E.,
To F.P. Rennie Esq., First Asst. Resident

Bangalore.

15th November 1906.

Dear Mr. Rennie,

103 Your D.O. Letter No.6496 dated the 14th instant, in regard to the question of the return to the Mining Board of gold and other mining materials produced in connection with criminal cases.

104 I am sending a separate communication this day to the Hon'ble Mr. Fraser, embodying the views of the Durbar on the subject.

105 As regards para 2 of your letter, I am afraid there is some misapprehension as to the true position of the Durbar when you say there, that " the Durbar have already concurred" with "the views expressed" in the correspondence referred to. In para 4 of Mr. Moss King's letter No.5390 dated the 21st September 1905, the Durbar were advised to abandon the original clause 22 of the Draft Mines Regulation, which provided for the payment of rewards to informers out of fines realised or out of property liable to be confiscated and they were informed that the executive arrangements which might be required for replacing the clause might be left for future consideration. It was this suggestion that was acceded to by the Durbar in para 4 of their letter Pol. No.355 dated the 8th November '06

51

The main question of the return of confiscated material to the Mining Board was reserved for future consideration; but owing to the inherent importance of the question and the necessity for consulting the Heads of Departments concerned and the Judges of the Chief Court it was, I regret, not possible to furnish the Durbar's reply earlier.

18/11/20

No. 7141. F 1462 32

D.O No. 7141 dated

BANGALORE.

16th December 1906.

From F.P. Rawlins Esq.,
Ag. Resident & V.P.
M. Thavara Rao Esq., Diwan

106 I am desired to acknowledge the receipt of your D.O. letter No. 312, dated 15th November in regard to the question of the return to the Mining Board of gold and other Mining materials produced in connection with criminal case.

107 In reply, I am to say that the Resident remains of opinion that, although the Durbar's strict right to retain confiscated gold has never been disputed, the proposed return of such gold to the Mining Board by executive order subsequent to the Judicial proceedings, would be an equitable act of grace on the part of the Durbar, and that the case of stolen coffee, which is the only case cited as bearing a close analogy, differs from that under consideration in several important particulars. From the nature of the article it would be much more difficult to presume that stolen coffee came from the estate of an individual or Company represented by the Planters' Association than that certain kinds of gold were the property of one of the Mines in the limited area of the Kolar Gold Fields represented by the Mining Board. So far as Mr. Fraser is aware, no Planters' Association has hitherto incurred expense in conducting prosecutions in coffee stealing cases, and partly for this reason and partly because of the difference in the intrinsic value of coffee and gold, no Planters'

Association

Association has hitherto made a similar claim for the restoration of the stolen property.

3. 108 The Resident, however, is not prepared to press that confiscated gold should be restored to the Mining Board, since the Durbar are unwilling to make the concession, but he would make the following suggestion for their consideration.

It is part of the Mining Board's case that the restoration of the gold is equitably called for to meet the heavy legal expenses they have to incur in the prosecution of thieves (Vide Mr. Bosworth-Smith's speech at Representative Assembly, 190). The Crown (Durbar) is the prosecutor in all cognizable cases, and the Durbar are obviously as much concerned in prosecuting gold theft cases as any other class of cognizable crime. It is therefore wrong in principle that the Mining Board should be left to conduct such prosecutions, and Mr. Fraser would suggest that, in future, the Mining Board should be invited to work in closer co-operation with the Public Prosecutor and that the Durbar should meet the cost of all special measures taken for the successful conduct of the prosecution which may be necessitated by the peculiar difficulties incidental to the detection and proof of offences of this class.

Yours sincerely,

H. Rumbold

V.P. Madhava Rao Esquire, C.I.E.,

Dewan of Mysore.

N. B.—Short notes may be written on this form. Longer notes must be copied, pasted on this form.

MGCPB—50,000—22-9-04

No.

D.O. 207141 of 16/12/06 from
to British Resident in Mysore.

State that the Resident is not prepared
to press the matter of returning gold stolen from
the Kolar gold fields and likely confiscated
by the State on the Durbar but suggests for
the consideration of the Durbar that all expenses
incurred in the successful conduct of the prosecution
of gold thief cases should be met by the State
just like as in the case of all Cognizable cases.

Secretary's note in pencil
"The acceptance of this has to be
arrg. Order ~~on Darkast~~ clearly expressed (with due qualifications)
Dyer (Sd.) K. S. C.

110 "To Mr Matthan for submitting a draft reply"
~~Under Secretary's note~~ K. S. Chandrasekhara Aya

111 "Put up with reference"
K. Matthan
Submitted with reference
Mr SV
16/12/06 18/12/06
~~Undersecy~~

112 Draft D.O. reply submd. Sd K. Matthan
~~Sent 26/12/06~~ 22.12.06
Submitted

113 Draft perused, & ~~approved~~
approval ~~appd~~ to ~~Secy~~ through 19 & 2nd Councillor
K. S. Chandrasekhara Aya 31/12

114 The draft may be approved.
Vide a few verbal alterations
indicated in pencil
T. J. Anandarao 2/1
Sent 29/Jan/07

IV

NOTE—Conto. sheet

MGCPB—50,000—24-7-05

Serial No. (115

It is well known that the Mining Board spent a large sum of money in the Obalareddi case. which was tried by Mr. Ramavadam Rajah, Sessions Judge of N. Arcot Distt. Mr. Eardley Norton was engaged for the Mining Board. The case ended in acquittal. An appeal was made to the High Court of Madras which confirmed the decision of the Sessions Court. If I remember rightly 40,000 Rs or more was spent in this case. Similarly Mr Eardley Norton was engaged by the to appear before the District Magistrate Kolar & the Chief Court of Mysore to appear in Special

GPB—50,000—23-10-05

R.S
General and Revenue Secretariat.

Lef File No. 5 of 1905

Serial No.

Cases in which the Mining Board was interested. The fees were Rs 500 a day and expenses paid. It is such expenditure that the Mining Board has in view in asking the Mysore Durbar to bear it. And we should be very careful not even to give a semblance of accepting such charges

116 The draft reply may be approved.

W. Kelly Cunningham
2D Councillor

31/1/07

31/1/07
W.S. 31/1/07

3546
31.1.07

117 The draft D.O. as revised, has been signed & the file resubmitted.

(No 448 S) 7.2.07.

9. 2. 07

C.S. Balasundaram
9/2/07

G.R.S, 12]
General and Reve
Secretariat.

MGCPB—50,000—24-7-05

and Tra Dr
KS

No. 121 Sent a circular letter to the Dep^t

First Draft

57

GOVERNMENT OF MYSORE

PATAN BHAVAN,
BANGALORE.

448-T.

D. O. No. 448/J. dated
7th February 1907.
from V. P. Madhava Rao
to J. P. Rennie, Esq^r, C.I.E.,

Dear Mr. Rennie,

118 I am in receipt of your D.O. letter No.7141 of the 16th December 1906, regarding the claim put forward by the Kolar Gold Field Mining Board to receive ~~a~~ on gold and mining materials produced before courts in connection with criminal cases. The Durbar are glad to note that the Hon'ble the Resident has found it possible to accept the view of the case put forward by ~~the Durbar~~ them.

119 With regard to the suggestion contained in the third para of your letter, I may say that the Durbar have always accepted the principle that the Crown (His Highness' Government) is the prosecutor in all cognizable cases, and that ~~private parties should not be left to conduct their prosecution~~ such cases in the prosecution of their own cases, but the conducting private parties. They are also fully alive to the importance of affording special assistance and protection to the Mining Industry on the Kolar Gold Field, and with this object they have entertained a much larger and a more highly organized Police Force on the Field than would

NOTE—Contn. sheet

GPB—50,000—23-10-05

G.R.S. 12]
General and Revenue
Secretariat.

Leg File No. 38 of 1906-07

Serial No.

126 No reply has yet been received from the Residency. Put up for further orders

JKS. 8/5/07

9/5

K Matthan 11/5

15.5.07

Note—Contn. sheet

GPB—10,000—18-1-07

62

Submitted to His Highness.

127 I submit for His Highness' information, the further correspondence that has taken place in regard to the claim of the Kolar Gold Field Mining Board to receive stolen gold and mining materials produced before Criminal Courts and confiscated to Government.

128 The Resident has agreed not to press the claim, but has suggested that the Government should invite the co-operation of the Board in the prosecution of cases of gold theft and should meet the cost of all special measures taken for successfully conducting such prosecutions.

129 The Crown being the Prosecutor in all cognizable cases, the Government have to bear the cost of prosecutions in such cases. In my D.O. reply of the 7th February to the Resident, this principle has been accepted with the necessary reservation that the Government should be the sole judge as to whether, any and if so what, special measures are necessary in connection with the prosecution of any particular case. As no reply has been received to this communication, it may be taken that the Resident has accepted our reservation and an order may now be issued in the matter.

130 A draft of the proposed order is annexed for approval. The Resident will be consulted demi-officially before the order is issued.

U.P. MacDonnell Rao
19/9/1907

64

D.O. No: 764/1 dated { Bangalore 17th Sept 07

from V. P. Madhava Rao Esq. C.S.I.,

to F. P. Rennie Esq., First Asst. Resident

Dear Mr. Rennie,

132 Please refer to my D.O. letter No. 448/1 of the 7th February 1907 in regard to the question of inviting the cooperation of the Kolar Gold Field Mining Board in the prosecution of cases of gold theft. As I have not had any reply to that letter, I take it that the Honble the Resident accepts the views expressed therein.

133 Enclosed is the draft of an order which I propose to issue in regard to the matter. Kindly let me know whether the Honble the Resident approves of the terms of the order.

Yours Sincerely

(Sd) V. P. Madhava Rao

65

D.O. No 6038

No 6038

THE RESIDENT MYSORE

Camp BANGALORE.

21st September 1907.

From J.P. Rennie Esq., I.C.S., Bangalore
To V.P. Madhava Rao Esq., C.S.I. Dewan

134 I am desired to acknowledge the receipt of your D. O. dated the 19th instant forwarding the draft of an order which the Durbar proposes to issue on the claim of the Kolar Gold Field Mining Board to the restitution of stolen gold and mining materials in accordance with the terms of the Treaty of 1881.

2. 135 In reply, I am to say that Mr. Williams' own views are those expressed in Mr. Low's D.O. to Sir P.N. Krishna Murti, dated 3rd October 1905, but he understands that Mr. Fraser was not prepared to offer any opposition to the issue of instructions in the sense of the draft Order which, however, he considered might be literally interpreted, and it may accordingly be taken that the views expressed therein are acquiesced in by the Resident.

Yours sincerely

J.P. Rennie

136 Orders may issue now

V. P. Madhava Rao Esquire, C.S.I., Dewan of Mysore.

V.P. Madhava Rao

21/9/1907

NNC

G. R. S. 12]
General and Revenue Secretariat.

Leg File No. 38 of 1906—07

Serial No. 1

Govt Orders No. J 530-32/525-- dt. 5th Sept. 07 to the Dist. Magte, Kolar; the Asst. Inspr. General of Mines & the Lapidary, Mysore Govt.

Notes that the claim of the Board is inadmissible and the value of the confiscated gold and other mining materials must, as heretofore, be credited to the Treasury. Govt have taken measures to ensure that cases of theft of gold are properly prosecuted and will be glad to have the co-operation of the Board in the matter; that the District Magte may give due consideration to any suggestion that may be received from the Mining Board for the adoption of any special measures, and if the Board takes any special or additional action on its own initiative, the cost thereof should be defrayed by itself, but that in cases where it may be proper for Govt to defray the portion of special expenditure the Dist Magte should submit a recommendation for sanction.

137 The register of confiscated property received from the Geological Department has to be returned (Rl. 0). Govt wish to accept the appointment

138 Issue

5.10.07 K. Hayagriva Rao

Note—Contn sheet.

GPB—50,000—17-3-07

Serial No. 2

From the Deputy Commr, Kolar, No. C1189 dt 18th Oct 1907.

Forwards copy of a letter received from the Secretary, Mining Board, regarding the Board's claim to receive sales of gold and mining materials confiscated by Govt.

139 While acknowledging the right of the Durbar to confiscate the same, the Board requests that, in consideration of the expenditure incurred by them for special prosecutions hitherto conducted, Govt may be pleased to return, as an act of grace the gold already confiscated, ~~to partially~~ for its use.

JRS. 710 Sff 18/10

140 The Board pray that the gold already confiscated may be returned to partially recoup the expenditure incurred in prosecutions till now. As the expenditure was incurred by them entirely of their own accord, though perhaps they can expect no relief from Govt.

~~Secy~~ 19.10.07. K Mylara Rao Asst

141 What is the value of the gold confiscated by Govt till now?

Balance 21/10/07 Dy Ly

Note—Contn sheet.

Serial No.

142 The information may perhaps be obtained from the Geological Secretary's office, which keeps a register of property confiscated & forfeited in cases where gold &c is involved.

Sd/D with a draft docket to the Geological Secretary for approval.

22/10/07 Sd/- illegible 143 Issue 23-10-07. Sd/-

Draft docket

To the Secretary to Govt. Geological Dept.

Ref G 1878/dcg 38-06-3 G 28/10/07

From the same office No. 1350 G 1/11/07.

States that the total value of the confiscated gold and other mining materials received in his office up to date is Rs. 28,628-13-9 approximately.

144 Sd/D for orders.

JKS 2/11/07 Sd/- illegible. Seen K Mylar Rao 5.11.07 Sd/-

145 In the present letter the Secretary to the Mining Board asks for the return of the gold as an exhibit now in possession of the Court. The gold weighs 1 oz. 4 dwts. and is worth Rs. 60,838 according to the Board in Mysore prosecution.

146 As stated by the Protector of [illegible]

Serial No.

gold & other mining materials of the value of nearly 29,000 Rs have been confiscated till now.

147 The question is whether this amount should be paid to the Board.

148 The right to return of confiscated gold has been definitely decided in the negative, & all that the Durban has conceded is that it will consult the wishes of the Board as to any special measures necessary for the prosecution of mining theft cases & bear the cost thereof. This is an arrangement for the future and cannot be held applicable to the past. In the past the Board incurred expenditure on prosecutions without the consent or approval of Govt & Govt is not bound to recoup any portion of such expenditure.

149 Further in connection with such cases the Durban also incurred considerable expenditure in the shape of deputing its officers to analyse suspected gold & give evidence in court. I believe the

NOTE—Contn sheet.

GPB—50 000—17-3-07

Serial No.

Cost of each analysis would come up to about 500 Rs & I believe several analyses had to be made in connection with these cases.

150 I believe the Govt also paid travelling allowance to the Officers of the Govt Dept who had to give evidence in these cases.

151 The Govt has thus incurred considerable expenditure in the past & though it is willing to incur similar & larger expenditure in the future for the proper administration of justice, it cannot recognise the liability of the present claim.

152 Further some of the forgery cases in the past were decided in British India according to Law & were prosecuted by the Mining Boards at great expense before British Indian Courts. Such for instance was the Obula Reddi case which was taken up to the High Court of Madras. It is possible that the expenditure incurred in such cases is also included in the 60 thousand odd Rupees.

NOTE—Contn. sheet

GPB—50,000—25-2-07

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spend by the Board in these prosecutions. The Durban is not bound to pay for the prosecution of these cases which occurred in British territory.

153 It is not unlikely that the 6 thousand odd includes expenditure on the many unsuccessful prosecutions undertaken without sufficient ~~proof~~ consideration of the evidence available, which if the Durban had been ~~consulted~~ ~~before~~ ~~hand~~, as ~~servants~~ ~~of~~ ~~the~~ ~~Court~~, might not perhaps have been proceeded with at all.

154 In the circumstances, I think a ~~public~~ ~~inquiry~~ may be useful, but while the Board are fully prepared to do all that is necessary with regard to future cases, as laid down in the rules recently passed, they do not see their way to comply with the request of the mining bodies made.

156 Hence the draft

157. Draft

P. Ramanya 5/12/07

27/12/07 6.12.07

C. Balasundaram 5/12/07

J. Amanda Rao 12 Dec 07

5.12.07

NOTE—Contn. sheet

GPB—50,(0)—26-2-07

G. R. S. 12]
General and Revenue Secretariat.

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158 Draft sent to the Secretary
JKS 30/12/07. 3-1-08. K Mylar Rao
SW 31-12-07

159 Please put up fair draft (typed) as revised.
CSB 14/1/08

160 Typed draft Subd
SW 16-1-08
K Mylar Rao 17-1-08.
7702 21-1-08

161 Draft submitted [illegible]
CS Balasundaram Iyer

162 Dft. appd. (Draft approved) 18/1/08 Iyer 18/1

163. Issue CS Balasundaram Iyer.
27/1/08
27-1-08.

5. To the Dt. Mgte., Kolar. No J 2288 dated 29/1/08.

States that Govt. have carefully considered the representation of the K. G. F. Mining Board for the return of the value of the gold already confiscated but regret they do not see their way to accede to their request; that in their Order of the 25th Sept. 07, Govt. have issued instructions to their officers to ensure that in all important cases of theft of gold and mining materials, adequate steps are taken in consultation with the Mining Board for the prosecution of such cases, and that

NOTE—Contn. sheet

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for reasons stated, while Govt. are willing to give due consideration to any suggestions that may in future be received they do not see their way to comply with the request of the Mining Board now made for the return to them of the value of gold already confiscated

P 1080

Legislative & judicial (Legislation) Mines

The claim of the Mining Board, for the unwrought
and mining material seized and produced before S

File No. 38 of 1906-07

Proceedings of the Government of His Highness the Maharaja of Mysore.

No 9930-32
Legis 38-06-1

Serial No. 1.

O r d e r -

The Government of His Highness the Maharaja have had under their consideration the claim put forward by the Kolar Gold Field Mining Board to receive stolen gold and ~~other~~ mining materials produced before Courts in connection with criminal cases in order to enable the Board to meet the heavy legal expenses it has to incur in the prosecution of such cases. In connection with this question the Government have consulted the Judges of the Chief Court and the Heads of the Departments concerned, and after very careful consideration, ~~they~~ have decided that this claim is inadmissible and that the value of confiscated gold and stolen materials must, as heretofore, be credited to the Public Treasury.

Date of receive 25-9-07
Signed by Mr T.S. Balasundaram Avl.

2. The Government being the prosecutor in all cognizable cases, they have ta measures to ensure that cases of theft o

gold and mining materials are, like other cognizable cases, properly prosecuted. But in consideration of the importance of this class of cases they will be glad to have the co-operation of the Mining Board in the prosecution of such cases in the Criminal Courts of the State. The District Magistrate of Kolar will therefore be requested to give due consideration to any suggestions that may be received from the Mining Board for the adoption of special measures that may be deemed necessary in regard to such prosecutions. The Government will, of course, be the sole judge as to whether any and if so what, special measures at the cost of the State, are necessary in any particular case, and it should be distinctly understood that when the Mining Board chooses to take special or additional measures on its own initiative and without reference to Government, the cost of such measures must be borne by the Mining Board itself. In every case in which it is considered proper that Government

should defray any portion of the expenditure Special connected with the ~~of~~ prosecution, the District Magistrate should submit a recommendation in that behalf for sanction.

By Secretary to Govt.

To

The District Magistrate, Kolar District for information and guidance, with a request that the terms of the order may be communicated to the Mining Board.

The Inspector General of Police.

The Comptroller Mysore Government.

~~Deputy Commissioner's Office,~~
~~Kolar District,~~
Letter No. C189
Dated Camp Mysore, 16th October 1907.

Serial No. 2

From

C. Srikantesvara Aiyar Esqr., B.A. B.L.,
Deputy Commissioner, Kolar District.

To

C. S. Balasundaram Iyer Esqr., B.A.,
Offg. Secretary to the Govt. of H. H. the Maharaja
of Mysore, General and Revenue Departments.

~~Sir,~~

With reference to Government Proceedings No. J.930-32/Legis.38-06-1 dated the 25th September 1907, anent the claim of the Kolar Gold Fields Mining Board to ~~receive stolen~~ Gold and Mining Material produced before Courts in Criminal cases, I have the honor to forward herewith, for orders of Government, a copy of letter dated the 2nd instant, from the Secretary to the Mining Board.

I have the honor to be,
Sir,
Your most obedient servant,

Deputy Commissioner,
Kolar District.

5

Letter dated the 2nd October 1907, from the Acting Secretary to the Kolar Gold Fields Mining Board, to the Deputy Commissioner, Kolar District.

I have the honor to acknowledge, with thanks, the re of your letter No. 1804 dated the 28th September 1907, and to inform you that the Board are pleased to learn that Government are willing to accept their co-operation in all important prosecutions relating to cases of theft of Mine Gold and Mining Materials, and that Government will bear the additional cost of any special measures suggested by the Board, with the view of obtaining convictions, when the same meet with their approval.

With regard to the second para of your letter, the Board whilst recognizing that confiscation to Government of stolen Gold and Mining Materials (proved to be the property of the Kolar Mining Companies) may be legally insisted upon, would respectfully request you to submit for the consideration of the Durbar whether, in view of the enormous expenditure incurred by the Board in previous prosecutions, they will, as an act of grace, be pleased to return the Gold already confiscated, to partially recoup the outlay referred to which amounts to Rs. 60,838.

C O P Y.

Deputy Commissioner,
Kolar District.

ab

G.R.S. 261

File No. 10
Serial No. 8

Diary No. of letter replied to

General and Revenue Secretariat
( )
, the 190 .

Date of issue 28-10-07

Signed by Mr K. Hyderabad

Docket
No. J. 1318
dated 28/10/07

To

The Secretary to Govt.
Geological Dept.
Bangalore.

Has the honor to request the favor of his furnishing the Govt. with information as to the value of gold and mining matters in the Kolar Gold Field Confiscated to Government till now. The District Magistrate of Kolar may be communicated with for any information that is not available in the matter in the Geological Secretary's office and an early reply forwarded to Government.

By order,
Dewan Secretary.

over.

No. J. 1319
Legis 38-06-03
dt 28/10/07

SUBJECT: Letter to the District magistrate of Kolar for information.

By order,
Dewan
Secretary

M. G. D. 16]

MYSORE GEOLOGICAL DEPT.

190

From

DR. W. F. SMEETH, M.A., D.SC., A.R.S.M., etc.,
Secretary to the Government of
H. H. the Maharaja of Mysore,
Geological Department

To

C.S. Palasundaram Iyer, Esq., B.A
Offg. Secretary to Government
Gen.& Rev. Depts.

Dated Bangalore, 31st October 1907.
Despatched 1st Nov. 1907.
Received
~~General~~ No. 1390.
~~Enclosure~~ No.

His docket No.J.1318-Legis.
8-06-3, dated 28th October 1907.

&&&&&&&&&&&&&

In reply to the above, has he honour to state that the total alue of the confiscated gold and ther mat mining materials rec pec n this office up to date is aro- imately Rs.28,628-13-9.

By Order

H. Kelsall Slater

for Secretary to Government,
.N. Geological Department.

GPB—250—26-9-06

Letter No. J. 2288 & 29th January 1908

~~Legis 38 06-~~ 8

To

The Deputy Commissioner
and District Magistrate
Kolar.

~~Sir,~~ Serial No. 5

I am directed to acknowledge the receipt of your letter No. C 189 dated the 16th October 1907 ~~forwarding~~ for orders of Government copy of a letter received from the Secretary to the Mining Board, Kolar Gold Field, requesting that in view of the enormous expenditure incurred by them in previous prosecutions for thefts of gold Government may be pleased to return to the Board the value of the gold already confiscated.

Date of issue 29-1-08
Signature Mr. K. Mylar Rao

2. I am desired to say that the Government have carefully considered the representation of the Board but regret they do not see their way to accede to their request. In their

Orde

Order of the 25th September 1907, Government have issued instructions to their officers to ensure that, in all important cases of theft of gold and mining materials, adequate steps are taken in consultation with the Mining Board for the prosecution of such cases, and they note that this arrangement meets with the approval of the Board.

3 As regards the cost incurred by the Board in connection with such cases in the past, Government observe that the special measures undertaken by the Board for which the expenditure must have been incurred were so undertaken without the concurrence of Government, and that Government on their part have also incurred special expenditure to a large extent in deputing their officers to make chemical analyses of stolen gold and to give evidence in Courts

Courts both in and out of Mysore.

4 In these circumstances, while the Government are willing to give due consideration to any suggestions that may in future be received, as laid down in their proceedings No. J 930-32/Leg W38-06-1 dated the 25th September 1907, they regret they do not see their way to comply with the request of the Mining Board now made for the return to them of the value of gold already confiscated.

I have, etc.,

Offg Secretary to Govt.